

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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US DISTRICT COURT E.D.N.Y.

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J&J SPORTS PRODUCTIONS, INC.,

BROOKLYN OFFICE

Plaintiff, -----

-against-

ORDER

17-CV-5359 (NGG) (ST)

BERNARD JAMES and CORLETTE NY
RESTAURANT & LOUNGE, INC.,

Defendants.

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NICHOLAS G. GARAUFIS, United States District Judge.

On September 12, 2017, Plaintiff J&J Sports Productions, Inc., commenced this action against Defendants Bernard James and Corlette NY Restaurant and Lounge, Inc. ("Corlette"), seeking relief under Sections 553 and 605 of the Communications Act of 1934, 47 U.S.C. §§ 553, 605, in connection with Defendants' alleged unlawful broadcast of an event to which Plaintiff retained the exclusive rights. (Compl. (Dkt. 1) ¶¶ 3, 16, 19.) Defendants have not appeared in this action and have failed to answer or otherwise respond to the Complaint. On November 29, 2017, and April 24, 2018, the Clerk of Court entered default against James and Corlette, respectively. (Nov. 29, 2017, Clerk's Entry of Default (Dkt. 8); Apr. 24, 2018, Clerk's Entry of Default (Dkt. 13).) On January 5, 2018, and May 14, 2018, Plaintiff moved pursuant to Federal Rule of Civil Procedure 55 for default judgment against James and Corlette, respectively (the "Motions"). (Jan. 5, 2018, Mot. for Default J. (Dkt. 10); May 14, 2018, Mot. for Default J. (Dkt. 14).) The court referred the Motions to Magistrate Judge Steven L. Tiscione for a Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1). (Apr. 20, 2018, Order Referring Mot.; May 17, 2018, Order Referring Mot.)

On July 25, 2018, Judge Tiscione issued an R&R in which he recommended that the court “grant Plaintiff’s motion[s] for default judgment against Defendants Bernard James and Corlette NY Restaurant and Lounge, Inc., d/b/a Corlette NY, finding them joint and severally liable for all damages.” (R&R (Dkt. 15) at 17.) Judge Tiscione further recommended that the court “enter a judgment awarding Plaintiff \$6,600.00, consisting of \$2,200.00 in statutory damages and \$4,400.00 in enhanced damages.” (Id.) Lastly, Judge Tiscione recommended that the court “grant Plaintiff’s request to file a motion for costs and attorney’s fees fourteen days after the judgment becomes final.” (Id. at 17-18.)

No party has objected to the R&R and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). Therefore, the court reviews the R&R for clear error. See Porter v. Potter, 219 F. App’x 112, 113 (2d Cir. 2007) (summary order) (“[F]ailure to object timely to a magistrate’s report operates as a waiver of any further judicial review of the magistrate’s decision.” (internal quotation marks and citation omitted)); Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010) (“Where no objection to the [R&R] has been filed, the district court need only satisfy itself that there is no clear error on the face of the record.” (internal quotation marks and citation omitted)).

The court has reviewed both the record and the R&R and, finding no clear error, ADOPTS the R&R (Dkt. 15). Plaintiff's Motions (Dkts. 10, 14) are GRANTED. The court AWARDS Plaintiff \$6,600.00, consisting of \$2,200.00 in statutory damages and \$4,400.00 in enhanced damages, and GRANTS Plaintiff's request to file a motion for costs and attorney's fees by no later than fourteen days after the judgment becomes final. The Clerk of Court is respectfully DIRECTED to enter judgment and close this case.

SO ORDERED.

Dated: Brooklyn, New York
August 10, 2018

s/NGG
NICHOLAS G. GARAUFI
United States District Judge